

**REPORT - PLANNING COMMISSION MEETING
December 8, 2005**

Project Name and Number: Deer Road Tract Map Extension (PLN2006-00102)

Applicant: Steve Allen, Mission Peak Homes

Proposal: To consider an extension to Tentative Tract Map 7250 to subdivide a parcel located at 1238 Deer Road into five single-family residential lots.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 1238 Deer Road in the Niles Planning Area.

Assessor Parcel Number(s): 507-0676-003-00

Area: 1.23 acres

Owner: John Wong, Mission Peak Homes

Agent of Applicant: Robert Kuns, Mission Peak Homes

Consultant(s): N/A

Environmental Review: A Mitigated Negative Declaration was prepared and adopted December 12, 2002, for the original Tentative Tract Map project (PLN2002-00204).

Existing General Plan: Residential 5-7 dwelling units per acre; Hill Face Open Space; Toe of Hill

Existing Zoning: R-1-6 (H-I) Single-Family Residence Hillside Combining District; O-S Open Space District [Hill Face]

Existing Land Use: Vacant, formerly residence with stable.

Public Hearing Notice: Public hearing notification is applicable. A total of 56 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Canyon Heights Drive, Deer Road, Stenhammer Drive, and Filton Court. The notices to owners and occupants were mailed on November 23, 2005. A Public Hearing Notice was delivered to The Argus on November 21, 2005 to be published by November 24, 2005.

Executive Summary: The project applicant proposes a one-year extension to Tentative Tract Map 7250 to subdivide a 1.23-acre site into five parcels. This will be the second of three possible tract map extensions.

Background and Previous Actions: The project site is located in an existing single-family neighborhood generally constructed in the 1940's and 1950's. The project site adjoins residential development to the north and west. The property to the south is owned by Alameda County Water District and the property to the east is owned by East Bay Regional Park District. In October of 2002, the Planning Commission considered the original subdivision application. Staff recommended that the Planning Commission approve the project. The Planning Commission denied the application and the applicant appealed to the City Council. On December 10, 2002, the City Council approved Tentative Tract Map 7250. On December 2, 2004, the Planning Commission approved a one-year map extension.

Project Description: The applicant seeks an additional one-year extension to Tentative Tract Map 7250 to subdivide a 1.23-acre site into five parcels for eventual construction of single-family homes. Deer Road will be extended east into the site and completed as a cul-de-sac street.

Time Extension of an Approved Map: As set forth in Chapter 3, Article 2, Section 66452.6(e) of the State Government Code and Fremont Municipal Code Sec. 8-1409, tentative maps expire after two years if no final map is recorded. The person filing the tentative map may subsequently request an extension of time to process a final map. The Planning Commission may grant an extension or extensions of a tentative map. City policy has been to grant extensions one year at a time to give the City the opportunity to re-evaluate the map and the surrounding area conditions. This will be the second of three possible tract map extensions. The applicant is requesting the extension under the provisions of Government Code 66452.6, which allows for an additional 3-year extension should the cost of related off-site improvements exceed \$178,000. Currently the applicant states that the estimate to construct the off-site improvements is a minimum of \$183,900.00.

The following information is an overview of the tentative map as originally approved. The current application is for the extension to this tentative map. The application doesn't propose any modifications to the tentative map.

General Plan Conformance: The existing General Plan land use designation for the 1.23 acre project site is Low Density Residential 5-7 dwelling units per acre and (Toe-of-the-Hill) Hill Face Open Space. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed project is single family residential development at a density of 4 units per acre. No minimum density is required for residential designations under seven units per acre.

Land Use (LU) Goal 1: New housing development while conserving the character of the City's existing single-family residential neighborhoods.

Housing (H) Goal 2: High quality and well designed new housing of all types throughout the City.

Zoning Regulations: The zoning designation for the site is R-1-6 (H-I) Single-Family Residence (Hillside Combining) District and on a portion of Lot 5, O-S [Hill Face] Open Space District. The proposed subdivision is in conformance with the minimum lot size of 6,000 square feet and with the Hill Area Development Regulations regarding increase of lot size based on slope on the site. The lots range in size from 6,590 to 17,068 square feet. The largest lot is Lot 5 at the east boundary of the site. The Hill Area Initiative of 2002 (Measure T) Toe-of-the-Hill line extends the length of Lot five. Lot 5 also has a required 30-foot wetband because the lot adjoins open space land. The future residences are subject to the Hill Area Development Regulations and Measure T, where it applies.

Landscaping: The project site contained several existing trees and an arborist report was prepared for the site. The City's Landscape Architect determined trees that may be removed from the site and trees to be preserved as annotated on the Tentative Tract Map. Trees to be preserved include a fan palm on Lot 4 and a Red Gum Eucalyptus at the southern end of Lot 5. The project is not in conflict with the City's tree preservation policy and ordinance.

Circulation/Access Analysis: Deer Road provides access to the project site. Deer Road is an existing minor residential street with a fifty-foot right-of-way width and a pavement width of approximately 32 feet. Deer Road was originally constructed during the development of Tract 633, prior to City incorporation. Deer Road will be extended east into the project site as a minor residential street and will be terminated with a standard cul-de-sac bulb. Sidewalks and driveways will be provided along the frontage of the five new lots.

Street Improvements: Deer Road is currently paved with asphalt and is bounded by asphalt swales, in lieu of standard curbs and gutters. Presently Deer Road is stubbed into both the project site and property owned by the Alameda County Water District. The project will extend to the east and terminate Deer Road as a standard cul-de-sac, with a fifty-foot right-of-way radius and forty-foot pavement radius. Approximately half of the Deer Road extension is on the Water District property. Prior to final map approval, the applicant shall cause the dedication to the City of the additional right-of-way from the Water District (Condition #8).

The Deer Road extension shall be improved to current city standards for a minor residential cul-de-sac street. The right-of-way width shall be fifty-two feet with a curb-to-curb pavement width of thirty-two feet. Although the tentative map and grading plan show sidewalk on the south side of Deer Road, the installation of sidewalk and landscaping on the south side

is not required. These improvements will be done when the adjacent property to the south develops. A standard driveway may be required on the south side to provide access to the Water District property.

Grading/Topography: The project site is approximately 1.2 acres. The site slopes up to the east; the existing grades vary from approximately 15 percent to over 25 percent at the eastern boundary. Elevations vary from 188 feet to 235 feet above sea level. The applicant is proposing to create split building pads on Lots 1 through 4 and maintain a sloped pad on Lot 5. There is a three-foot difference in elevation between the pads on each lot. The homes built on these five lots shall be designed to conform to the contours established with the grading plan adopted at the time of the original Tentative Tract Map.

Retaining Walls: The developer is proposing the installation of retaining walls along the eastern property lines of each lot. The heights of the retaining walls vary but the maximum height is three feet, in accordance with the Hillside Combining District (H-I) development standards. The retaining walls serve to establish the split building pads on Lots 1 through 4. Lot 5 will be slightly graded with a slope of approximately 16 percent inside building area. Property line fences, built on top of these retaining walls, will be limited in height to a maximum combined retaining wall and fence height of eight feet, as required by the code.

Geologic Hazards: On October 19, 2004, the State Geologist released a map entitled "Seismic Hazard Zones, Niles Quadrangle." These maps assist cities and counties in fulfilling their responsibilities for protecting the public from the effects of earthquake induced ground failure as required by the Seismic Hazards Mapping Act (SHMA), which became operative on April 1, 1991. The SHMA was in response to damaging earthquakes experienced in northern and southern California. In accordance with the SHMA, prior to approval of a project located in a seismic hazard zone, the City must require a geotechnical report defining and delineating any seismic hazard.

The western edge of the project site is located within a liquefaction seismic hazard zone and the eastern portion of the site is located within an earthquake-induced landslide seismic hazard zone. Therefore, the subdivider must submit a seismic hazard report prepared in accordance with the SHMA and State guidelines. Prior to approval of the final map, the City must review and approve the report, including mitigation measures, if any, and file the report and mitigation measures with the State Geologist. The subdivider shall be responsible for all fees associated with the City review and approval of the report, including peer review fees by the City's geologic consultant.

Hillside Combining District (H-I), Land Constraints: In December 2003, the Hillside Combining District (H-I) definitions of land constraints was amended to include "lands which the city engineer or building official reasonably finds, based upon the evidence before him or here are a landslide, in the path of a landslide, at risk of a landslide, or in an area of slope instability." Upon review of the State hazard maps and the physical conditions of and surrounding the site, the City Engineer has determined that a site-specific geotechnical report is required to demonstrate that the project site is not constrained. The report shall include analysis of both earthquake-induced hazards (liquefaction and landslides) and rainfall-induced landslides. The report shall include analysis of the undeveloped slopes east of the project site.

Drainage: The storm drainage facility for this site is Zone 5, Line A, also known as Alameda Creek. There are currently no underground storm drains on Deer Road, east of Canyon Heights Drive. The proposed subdivision shall install a storm drain system in Deer Road to convey storm water from the project to the existing storm drains west of Canyon Heights. In addition to the public storm drain improvements, the applicant has proposed the installation of concrete ditches on Lot 5 to convey runoff from the hill face on the East Bay Regional Park District property. The storm drain system on each lot consists of area drains, drainpipe, and natural swales. The drainage system shall be subject to approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance for four new residences and a credit for the fifth residence. The credit is for the residence that was demolished. This project will be subject to payment of Park Dedication-in-lieu fees for the four new lots created by this map prior to issuance of building permits for each lot.

Environmental Analysis: A Mitigated Negative Declaration was adopted by the City Council in December of 2002. A finding is proposed that this project does not represent any new impacts not addressed in the Initial Study and Mitigated Negative Declaration adopted in December of 2002.

Response from Agencies and Organizations: All responding utility services stated the site could be serviced.

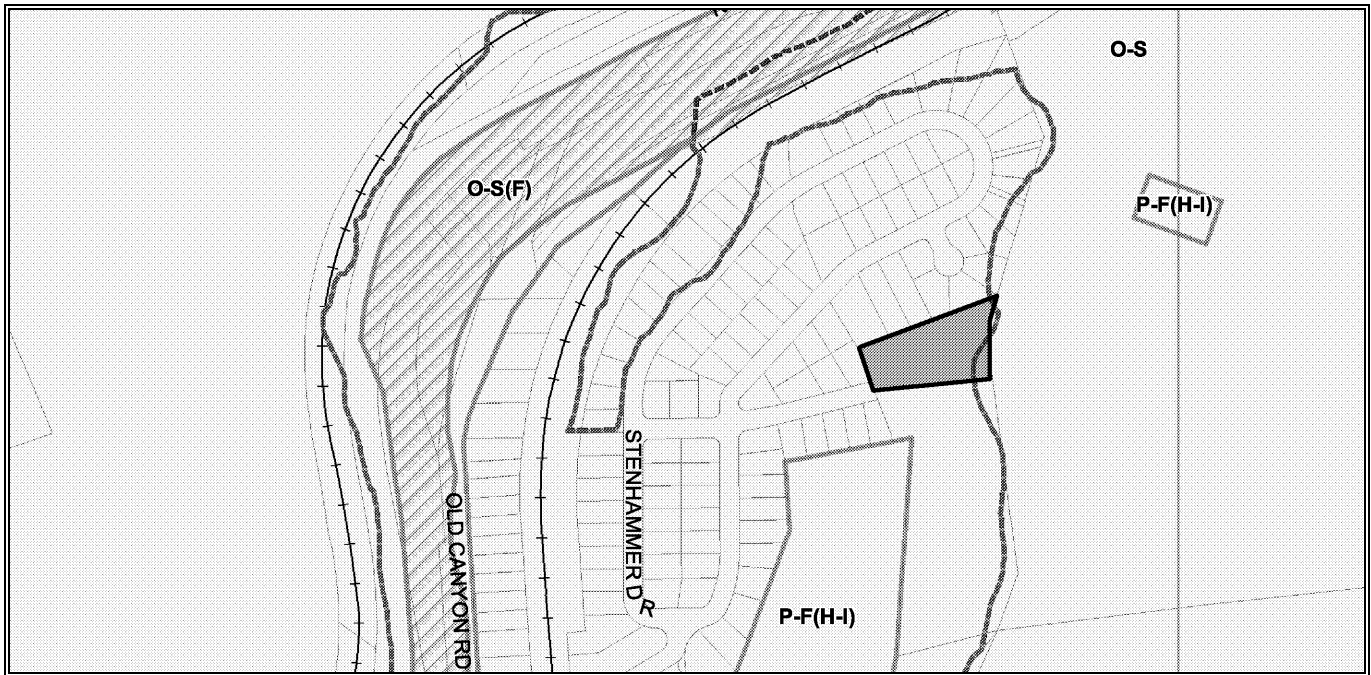
Enclosures: Exhibit "A" Tentative Tract Map 7250

Exhibits: Exhibit "A" Tentative Tract Map 7250
Exhibit "B" Findings and Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find the previous initial study and Mitigated Negative Declaration for the General Plan Amendment has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
3. Find that the Mitigated Negative Declaration, adopted by Council on December 10, 2002, considered all impacts related to the project and that no new impacts will result from this development.
4. Find PLN2006-00102 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
5. Approve a one year extension to December 10, 2006, of Tentative Tract Map 7250, as shown on Exhibit "A", subject to Findings and Conditions on Exhibit "B".

Existing Zoning
Shaded area represents the Project Site



Existing General Plan

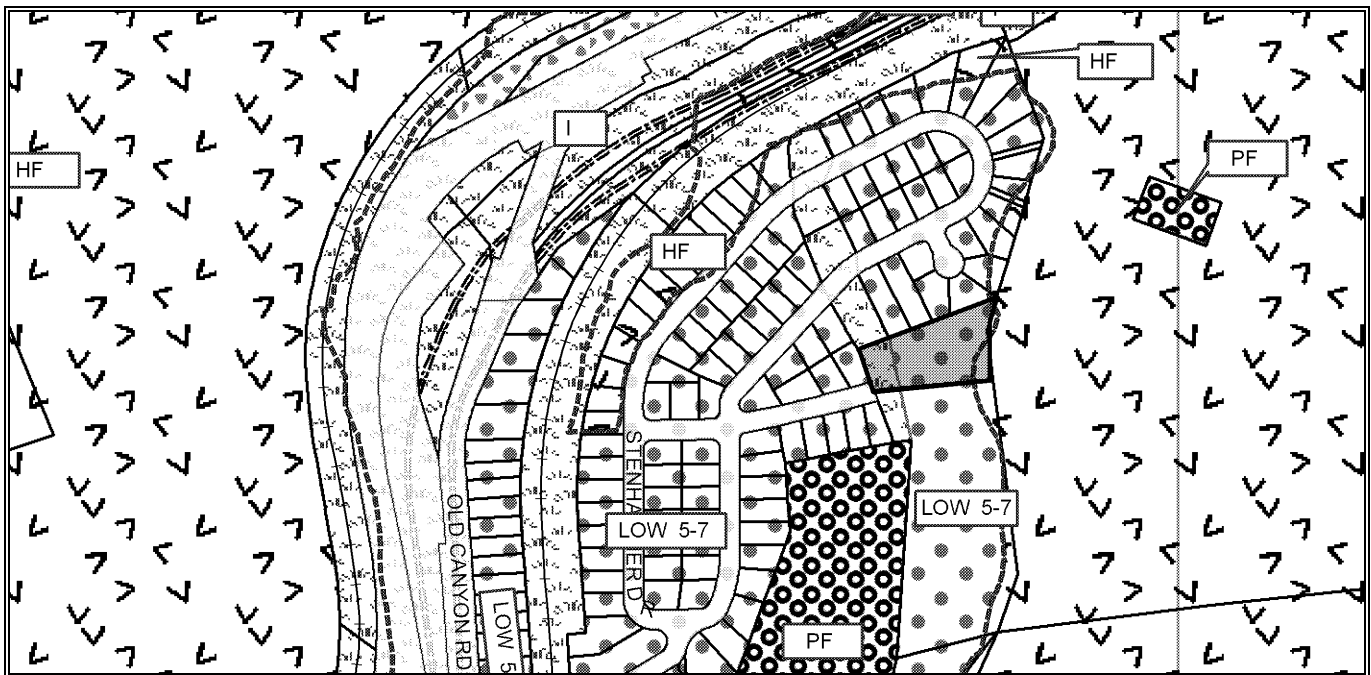


EXHIBIT "B"
Findings and Conditions of Approval for
PLN 2006-00102 (Tentative Tract Map 7250 Extension)
Mission Peak Homes – 1238 Deer Road

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated October 24, 2002, incorporated hereby and approved by City Council on December 10, 2002, approved for extension December 2, 2004, and again proposed for approval by the Planning Commission for this map extension.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of the design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration is in conformance with the low density residential requirements of the General Plan.
3. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration is in conformance with the low density residential R-1-6 (H-I) and O-S requirements of the Zoning Ordinance.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because of the design and location of the development.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements is required prior to final parcel map approval.

CONDITIONS

1. The project shall conform to Exhibit "A" (Tentative Map, Tract 7250), and all conditions of approval set forth herein.
2. This tentative tract map is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the original tentative tract map application (PLN2002-00204). If any of the information is shown to be inaccurate subsequent to approval of the tentative tract map by the City, such inaccuracy may be cause for invalidating the approval.
3. Plans must be submitted to the Development Organization for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
4. To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as feasible to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be replanted to minimize the generation of dust. Designate a person to oversee the implementation of the dust control program. Construction of the project will result in generation of additional exhaust

and fumes into the atmosphere from the short-term use of the construction equipment. Local particulate concentration may increase during construction, and it is likely that state particulate standards may be temporarily exceeded in the surrounding areas. Dust emissions during construction will be minimized through the application of water required by the project specifications.

5. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5. (e) and (f) will be followed to reduce impacts to a non-significant level.
6. The applicant will remove the pesticide contaminated soil from the identified areas and have the areas re-tested by Aqua Science Engineers, or another City approved consulting firm, subject to the review of the City of Fremont Hazardous Materials Program Manager. The removed soil will be legally disposed of per industry standards.
7. All equipment used on the project should be adequately muffled and maintained. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by the City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - a. Monday – Friday, 7:00a.m. to 7:00 p.m.
 - b. Saturday and Holiday, 9:00 a.m. to 6:00 p.m.
 - c. Sunday, no construction activity allowed
8. Trees designated number's 108, 109, 110, 111, 112, and 115 and other trees as annotated on the Tentative Tract Map shall be preserved on the site. Other trees to be preserved on site include the Fan palm on lot 4 and the Red Gum Eucalyptus on lot 5. The trees designated 106, 107, 113, 114, 116, 117, 118, and 119 shall be removed.
9. Prior to approval of the final map, the developer shall cause the Alameda County Water District to dedicate the necessary right-of-way for the southern half of Deer Road as shown on Exhibit "A."
10. The developer shall dedicate right-of-way and install complete street improvements for the extension of Deer Road, with a right-of-way of fifty-two feet, a pavement width of thirty-two feet, and a City Standard Type "A" cul-de-sac bulb. Street improvements for the portion of Deer Road shown on the adjacent Alameda County Water District parcel shall not include sidewalk and landscaping.
11. Prior to final map approval, the existing fifty-foot wide tunnel easement to the City and County of San Francisco shall be vacated.
12. Prior to final map approval, the developer shall relocate the existing fence along the northern edge of the project site to the northern property line and shall cause the removal or relocation of any existing structures or other improvements that straddle the boundary of Tract 1943 and the project site. Alternatively, the developer may negotiate lot line adjustments with the property owners along the northern edge of the project site.
13. The streetlight plan and joint trench plan shall be submitted by the applicant with the first check for the street improvement plans. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
14. The developer shall request P.G.& E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7250.
15. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
16. Any development on the four newly created lots will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, traffic impact, and park dedication in lieu. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit

issuance. A credit for the existing one lot and one residence to be demolished will be given.

17. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
18. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
19. All new utility service connections, including electrical and communications, shall be installed underground.
20. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
21. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
22. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
23. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.

SUBDIVIDER, PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. Any fee, dedication, reservation or other exaction shall be only those in effect on the date that this tentative tract map is approved. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

CONDITIONS ADDED BY PLANNING COMMISSION DECEMBER 2, 2004

24. Tentative Tract Map 7250 is extended one year to December 10, 2005 as shown on Exhibit "A", and subject to previous findings and conditions and the following conditions.
25. The subdivider shall submit a site-specific geotechnical report, which delineates seismic hazard in accordance with the Seismic Hazards Mapping Act. The report shall be completed in accordance with Special Publication 117, "Guidelines for Evaluating and Mitigating Seismic Hazards in California," published by the State of California Department of Conservation. In addition to the seismic hazard analysis, the report shall also include analysis of the risk of a rainfall-induced landslide. The report shall not only investigate the project site, but also include the undeveloped slope east of the project site.
26. Prior to approval of the final map, the City shall review and approve the site-specific geotechnical report. The report shall be peer reviewed by the City's geotechnical consultant. Fees associated with the peer review shall be borne by the subdivider.

CONDITIONS ADDED BY PLANNING COMMISSION DECEMBER 8, 2005

27. Tentative Tract Map 7250, as shown on Exhibit "A", is extended one year to December 10, 2006, and subject to previous findings and conditions.
28. Please note revision to Condition # 7 regarding Construction Hours. This condition is being modified to conform to Ordinance 8-2205, Citywide Construction Hours.
29. The new Measure T (Hill Area Initiative of 2002) Toe-of-the-Hill Line shall be delineated on the Final Map. The building envelope for Lot 5 shall be modified to avoid areas above the Toe-of-the-Hill. A Measure T Easement shall be recorded on the property.